



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF MUNICIPAL AUDIT**

John G. Morgan
Comptroller of the Treasury

SUITE 1600
JAMES K. POLK STATE OFFICE BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-0271
PHONE (615) 401-7871
FAX (615) 741-1551

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

July 28, 2005

Honorable Mayor and Members of the
Board of Commissioners
Town of Englewood
P. O. Box 150
Englewood, TN 37329

Gentlemen:

We have completed our investigative audit of selected records related to the City of Englewood Police Department. The examination focused on the period January 1, 2002, through April 30, 2005. However, when the examination warranted, we expanded the scope. The audit was limited to an examination of the department's drug fund and property and evidence function.

Our investigative audit revealed the following issues:

1. Seized cash unaccounted for

Police personnel were unable to locate cash totaling at least \$849.44 seized during six separate arrests pursuant to Section 53-11-451, *Tennessee Code Annotated*. We noted that for one arrest that resulted in a \$540 seizure, police personnel failed to obtain the required seizure warrant or file the seizure with the Department of Safety.

2. Required procedures for confidential funds transactions not followed by police department

Auditors were unable to account for \$350 in cash obtained by the police chief from the drug fund in May 2004. There was no documentation that the cash was turned over to the designated narcotics officer or that it was used for some other lawful purpose.

Our investigative audit also revealed that the police department failed to maintain a separate bank account for confidential funds. In addition, records of undercover drug fund usage were unavailable for the period prior to January 2004. Finally, the requests for additional funds from the recorder were not documented.

“Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs,” developed pursuant to Section 39-17-420(f), *Tennessee Code Annotated*, describes proper procedures for undercover cash and also includes prescribed forms for the proper documentation of confidential funds transactions.

3. **Confiscated drugs not properly accounted for, inventoried, or disposed of**

The police department maintained custody of drugs and drug paraphernalia seized pursuant to Section 53-11-451, *Tennessee Code Annotated*. Our investigative audit revealed that four drug items could not be found or accounted for. In addition, the department did not follow the procedures set forth in state statutes for inventory and disposal of drug items no longer needed for court.

Our investigative audit revealed the following deficiencies:

- A complete, updated inventory of property and evidence was not maintained
- Applicable seized drugs and drug paraphernalia were not destroyed annually as required by state law
- Property and evidence was not adequately labeled
- Several narcotic property items and paraphernalia were kept unsecured in an unlocked file cabinet in the police squad room

Section 53-11-451(j), *Tennessee Code Annotated*, states:

Any property of the type set forth in subdivisions (a)(1) and (7) which is in the custody and possession of a clerk of any court of this state by virtue of the property having been held as evidence or exhibits in any criminal prosecution where all appeals or potential appeals of a judgment have

Honorable Mayor and Members of the
Board of Commissioners
Town of Englewood
July 28, 2005
Page 3

ended, or when the case has been dismissed or otherwise brought to a conclusion, shall be disposed of as follows:

(1) The clerk of the court having custody of the property to be disposed of shall, no less than once annually, inventory the same and prepare a list of the property proposed to be destroyed with references to the cases involved and the name of the case, the case number and date when such property was used;

(2) The clerk shall submit the inventory list with a filed petition to the court and shall serve a copy of the petition upon the district attorney general. After determining that the listed property is not needed as evidence in any pending or potential judicial proceeding, the court shall order the property to be destroyed; and

(3) The clerk, or such deputy as the clerk may designate, shall completely destroy each item by cutting, crushing, burning or melting and shall file, together with the petition and order relating to the destroyed property, an affidavit concerning such destruction, showing a description of each item, the method of destruction, the date and place of destruction, and the name and addresses of all witnesses to the destruction.

4. **Unlawful release of seized vehicle**

Police personnel seized a pickup truck from an individual pursuant to Section 53-11-451, *Tennessee Code Annotated*. However, contrary to state law, this vehicle was privately sold back to the owner from whom it was seized. Section 53-11-201(b), *Tennessee Code Annotated*, requires that all property seized pursuant to this statute be sold at **public** sale. In addition, Section 40-33-211(d), *Tennessee Code Annotated*, prohibits an owner of property whose interest had been forfeited

Honorable Mayor and Members of the
Board of Commissioners
Town of Englewood
July 28, 2005
Page 4

after being charged with a felony from bidding on or purchasing that property from the seizing agency.

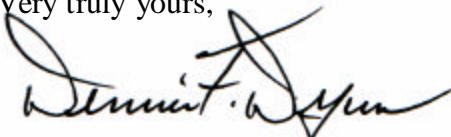
5. **Release of vehicles and firearms not adequately documented**

Police personnel released several vehicles and weapons which they had taken into custody. However, in some instances, personnel failed to document to whom and for what lawful reason the property was released.

Although confiscated or held property does not legally belong to the city, the police department is responsible for the property. The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 1, Chapter 4, Section 3, states, "Municipal officials should . . . require that a record of movable, high-risk, sensitive property . . . be established and maintained. . . ."

City officials should take immediate corrective action to resolve these issues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dennis F. Dycus", with a stylized flourish at the end.

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

DFD/RAD